

<p>1 information after the Bob Gdaniec letter of March 26, 2 2004, and the fact that VEO wasn't disclosing the detailed 3 design information once IKE took -- acquired the 4 ownership, then that would lead IKE to believe that VEO 5 would not bring those opportunities to IKE.</p> <p>6 Q Anything else?</p> <p>7 A Not at this time.</p> <p>8 Q Other than your belief that VEO would not bring 9 these opportunities to IKE, do you have any evidence that 10 IKE actually lost opportunities as a result of any alleged 11 attempt by Victory Energy to market a boiler above 150,000 12 pounds per hour of steam during the time that IKE was the 13 licensor?</p> <p>14 A For the specific proposals that were submitted by 15 VEO above 150, if IKE sales engineers were in direct 16 contact with the end licensee early on, IKE would have had 17 a good opportunity of securing the orders, yes.</p> <p>18 Q We already talked about Victory Energy did not have 19 an obligation to provide those opportunities to IKE so I'm 20 talking about actual lost opportunities that you have 21 knowledge of.</p> <p>22 MR. GISLESON: Objection to the preamble.</p> <p>23 A I don't know.</p>	<p>185</p> <p>1 Q Do you have any evidence of any text, document or 2 other evidence from any potential customer to the effect 3 that they would not purchase from IKE as a result of 4 Victory Energy's marketing boilers above 150,000 pounds 5 per hour steam?</p> <p>6 A Not at this time. Discovery is continuing and we 7 will add to that.</p> <p>8 Q Identify all consumer goodwill that IKE alleges it 9 lost as a result of VEO's conduct. And if its the same as 10 what you just testified to with regard to lost 11 opportunities, you can tell me that.</p> <p>12 A Yes, its the same.</p> <p>13 Q Identify all revenue IKE alleges it lost as a 14 result of VEO's conduct.</p> <p>15 A Its the same.</p> <p>16 Q Identify all market share that IKE alleges it lost 17 as a result of VEO's conduct.</p> <p>18 A I can't quantify at this time.</p> <p>19 Q Identify any competitive advantage that it alleges 20 it lost as a result of VEO's conduct.</p> <p>21 MR. GISLESON: Asked and answered.</p> <p>22 A It's the same as what I said.</p> <p>23 Q Okay. Because I had broke it down as I explained</p> <p>186</p>
<p>1 at the outset. Okay.</p> <p>2 Please identify for me any profits IKE has earned 3 through Christian Power Equipment since Christian Power 4 terminated its License Agreement in February of 2004.</p> <p>5 A There are no profits inasmuch as Christian Power 6 has not sold any Keystone orders for IKE.</p> <p>7 Q My question was not related solely to Keystone 8 boilers. It was any profits of any kind.</p> <p>9 MR. GISLESON: That's how we interpreted the 10 request, the topic.</p> <p>11 BY MR. SHEEPAN:</p> <p>12 Q Has Christian Power made any sales since February 13 of 2004 for Indeck Keystone Energy?</p> <p>14 A I don't know without looking into it.</p> <p>15 Q Has IKE obtained any profit as a result of any of 16 the sales that Christian Power has made since February of 17 2004?</p> <p>18 A I don't know without looking into it.</p> <p>19 MR. SHEEPAN: I don't understand how this was 20 interpreted to be only Keystone boilers, John. There's no 21 reference anywhere in it to Keystone boilers. I mean, 22 what I think makes sense for 27 and 28 is if you're going 23 to tell me you made the same interpretation for 28 --</p> <p>187</p>	<p>1 MR. GISLESON: Which we did.</p> <p>2 MR. SHEEPAN: -- that you agree to supplement 3 it with documents.</p> <p>4 MR. GISLESON: Or to do what VEO did, which 5 is simply to give you a general profit number. Do you 6 have the same kind of information we got?</p> <p>7 MR. SHEEPAN: I also asked for the sales 8 themselves, the underlying sales.</p> <p>9 MR. GISLESON: Where is that?</p> <p>10 MR. SHEEPAN: I think I'm entitled to know 11 the sales as well as the profit.</p> <p>12 MR. GISLESON: I'll confer with IKE and 13 consistent with whatever the information was that VEO 14 provided with respect to its profits we will do it in a 15 similar format.</p> <p>16 MR. SHEEPAN: I think this is a pretty 17 straightforward request and given the fact that you really 18 haven't come up with anything as a result, I'm going to, 19 on the Record, indicate that I think you are woefully 20 short of what was required by this topic and, you know, if 21 we need to reconvene the Deposition at a later time in 22 order to get this information, I'll reserve our right to 23 do that.</p> <p>188</p>

<p>1 MR. GISLESON: I disagree. We will 2 supplement. The case is about water tube boiler. 3 MR. SHEEAN: We also have a claim with for 4 interference with contract and we're entitled to pursue 5 our damages as a result of those claims, which we're 6 trying to do, so its not just a case about water tube 7 boilers. 8 Why don't we take a five-minute break. 9 (Thereupon, a recess was taken). 10 MR. SHEEAN: I just have a few wrap up 11 questions. 12 BY MR. SHEEAN: 13 Q One of the documents that you cited earlier today, 14 Mr. Petcos, as the basis for IKE's interpretation of the 15 License Agreement was the Rosetti agreement. 16 Do you recall that? 17 A Yes. 18 Q When did IKE obtain a copy of the Rosetti 19 agreement? 20 A I don't recall. 21 (Thereupon, Deposition Exhibit No. 12 was 22 marked for identification). 23 BY MR. SHEEAN:</p>	<p>190 1 Q Handing you what we have marked as Exhibit 12, for 2 the Record its IKE 8250. It is an E mail from Bob Gdaniec 3 to Chris Petcos. It says, Bob, thanks for locating the 4 Rosetti document, Chris. 5 Do you see that? 6 A Yes. 7 Q Does this refresh your recollection as to when IKE 8 obtained a copy of the Rosetti License Agreement? 9 A Yes. 10 Q Do you know why it wasn't produced to Victory 11 Energy in the course of the litigation? 12 A No. 13 MR. GISLESON: I'll answer that. Because it 14 wasn't specifically requested. 15 MR. SHEEAN: I dispute that. 16 BY MR. SHEEAN: 17 Q I was asking before about the efforts by IKE to 18 revise the KPSC program. Do you recall that, those 19 questions? 20 A Yes. 21 MR. SHEEAN: Let's mark these three 22 Exhibits. 23 (Thereupon, Deposition Exhibit Nos. 13, 14</p>
<p>191 1 and 15 were marked for identification). 2 BY MR. SHEEAN: 3 Q Handing you what we have marked as Exhibits 13, 14, 4 15; 13 is November 12, 2004, E mail from Bob Gdaniec to 5 Neil Bradwell with a cc to Bob Gdaniec, 14 is IKE 8314, 6 and that's a January 24, 2005, E mail to -- from Chris 7 Petcos to Bob Gdaniec and Neil Bradwell and 15 is a 8 February 10, 2005, E mail, IKE 8211 and I think that 8214 9 is actually the attachment to 8211 that's referenced in 10 the E mail from Bob Gdaniec to Chris Petcos, but I'm going 11 to start with 14 which says, from Chris to Bob, Bob, as 12 discussed please proceed with the following and the 13 subject is VEO action items. 14 1, remove the option to rate/design the D boiler; 15 2, copy all of Mark White's E mails to discs. Use 16 tape backup prior to Mark deleting his E mails; 17 3, proceed with up loading new program as soon as 18 possible. 19 Do you see that? 20 A Yes. 21 Q Do you recall sending this E mail to Mr. Gdaniec? 22 MR. GISLESON: Objection. This is beyond 23 the scope of the Notice. He's here as IKE's designee.</p>	<p>192 1 You already had a chance to depose him in his personal 2 capacity. 3 MR. SHEEAN: I disagree. What I have asked 4 about is IKE's efforts to provide the software and the 5 hardware and this goes to the efforts IKE made to revise 6 the software in February of 2005. 7 MR. GISLESON: I'll give you a little bit of 8 latitude. 9 BY MR. SHEEAN: 10 Q Do you recall sending the E mail, sir? 11 A I believe so. 12 Q Okay. Does this relate to your efforts to revise 13 the UNIX work station that had been sent by Victory 14 Energy? 15 A Not necessarily. 16 Q Does it relate to efforts to revise the KPSC 17 program that was being provided to Victory Energy, 18 specifically with regard to topic No. 1, remove the option 19 to rate and design the D boiler; that relates to the KPSC 20 program; right? 21 A Specifically that topic, yes. 22 Q Okay. And proceed with uploading the new program 23 as soon as possible. That relates to the KPSC program;</p>